

RDMD/Planning and Development Services

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DATE: August 12, 2004

TO: Orange County Zoning Administrator

FROM: RDMD/PDS/Current and Advance Planning Services

SUBJECT: Public Hearing on Planning Application PA04-0047 for Variance

PROPOSAL: The applicant proposes to add a ground level, 175 square feet 11-foot high addition (morning room) at the rear of the existing single-family dwelling. The proposed addition is located 17 feet – 4 inches from the rear property line. The rear yard setback requirement for this site is 25 feet from the rear property line. Since the proposed addition is less than 25 feet from the rear property line, a Variance is required.

LOCATION: The property is located at 1016 Chantilly Circle, Santa Ana, which is located west of Newport Blvd and south of Canyon View Ave. Third Supervisorial District.

APPLICANT: Richard and Sunshine Reeder, property owner

STAFF William V. Melton, Project Manager
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SYNOPSIS: PDS/Current and Advance Planning Services recommends Zoning Administrator deny PA04-0047 on grounds that variance findings cannot be made.

BACKGROUND:

The subject property is approximately 9,600 feet in area, measuring 92 feet x 110 feet, and developed with a two-story single-family dwelling. Records indicate that the dwelling was constructed around 1985. The dwelling and property are typical of other dwelling constructed in the vicinity and subject to the same zoning standards. Recent building activity on the site is a 10 feet by 15 feet by 12 feet high gazebo constructed 5 feet from the rear property line. The structure was built under building permit number RS951632. The proposed morning room addition will be constructed between the dwelling and the gazebo.

The subject site is in Planning Area 2 of the Cowan Ranch Planned Community (developed and known as Rocking Horse Ridge, a gated community). Planning Area 2 has a land use designation of “Medium Low Density Residential”. Site development standards are per the RHE “Residential Hillside Estates” District of the Zoning Code.

SURROUNDING LAND USE:

The subject site and all surrounding properties are within Planning Area 2 of the Cowan Ranch Planned Community. Site development standards are per the RHE “Residential Hillside Estates” District of the Zoning Code.

**REFERRAL FOR COMMENT AND PUBLIC NOTICE:**

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to one County Division and Rocking Horse Ridge Estates Homeowners Association and the City of Orange. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. Neither the Rocking Horse Ridge Estates Homeowners Association nor the City of Orange submitted comments. The applicant did submit a letter from the Rocking Horse Ridge Estates Homeowners Association indicating that the association approved the room addition proposal.

CEQA COMPLIANCE:

The proposed project is Categorically Exempt (Class 5, minor alterations in land use limitations such as setback variance) from the requirements of CEQA. Appendix A contains the required CEQA Finding (required only if the proposal is approved).

DISCUSSION/ANALYSIS:

The existing kitchen area has a small roofed “pop out” at the rear of the structure. The applicant proposes to remove the existing pop out and construct a larger addition, “morning room”, to the kitchen. The proposed addition measures 15 feet wide by 12 feet – 8 inches deep by 11 feet high to the top of the roof (same height as the existing pop out). The proposed room addition would be located 50 feet from one side property line, 40 feet from the other side property line and 17 feet – 4 inches from the rear property line.

The existing dwelling is setback 30 feet from the rear property line. This leaves only 5 feet available for any additions to the rear of the structure and still conform to the 25 feet rear setback standard. Since the proposed addition encroaches 7 feet – 9 inches into the rear setback area, a variance is requested.

As previously noted, the proposed addition is located between the residence and a detached gazebo. The proposed addition would not be visible from the property to the rear not only because of the gazebo, but also because the building pad on the property to the rear is at a much lower elevation. The proposed addition should have no visual impact on the properties to the side because of the distance to adjacent structures and the difference in building pad elevations. The square footage of the proposed room addition encroachment of 7 feet – 9 inches in the rear setback area represents less than 5 percent of the total rear yard setback area (25 feet times the lot width of 92 feet).

There is only one issue with this proposal; and that is the required variance findings. In accordance with State and County planning laws, before a variance is approved, the decision-maker must be able to make the following variance findings listed below.

1. *There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.*
2. *Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.*

If the decision-maker, in this case the Zoning Administrator, cannot make these findings, the application must be disapproved. Staff was unable to find any specific special circumstances applicable to this proposal. There are no topography issues unique to the site. There are no zoning differences with this proposal that are different than when the site was originally created. There are no other rear yard variances in the surrounding neighborhood. The applicant is able to make full use of the site without the approval of the requested variance. However, the Zoning Administrator, after reviewing available project information and hearing public testimony, may conclude that there are special circumstances applicable to proposal, and the Zoning Administrator can approve this variance request. In the event the Zoning Administrator feels the variance can be approved, staff has included findings and conditions of approval for the Zoning Administrator's consideration. Finding No. 6 is the special circumstance finding that the Zoning Administrator may determine adequately addresses the proposed project.

RECOMMENDED ACTION:

PDS/Current and Advance Planning Services recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Deny Planning Application PA04-0047 for Variance; **or**,
- c. If the Zoning Administrator determines that the Variance finding can be made, then approve PA04-0047 subject to the attached Findings and Conditions of Approval.

Respectfully submitted

William V. Melton, Project Manager
CAPS/Site Planning Section

WVM

Folder: My Documents/Variance/Variance 2004/Staff 9-12 Reeder

APPENDICES:

- A. Recommended Findings (only required if project is approved)
- B. Recommended Conditions of Approval (only required if project is approved)

EXHIBITS:

1. Applicant's Letter of Explanation
2. Site Photos
3. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the RDMD/Planning and Development Services.